

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

UNITED STATES OF AMERICA,

Plaintiff,

v.

CHEMCENTRAL CORPORATION,
RECLAMATION COMPANY, INC.,
AMERICAN LABORATORIES, INC.,
ESTATE OF MORRIS I. SHEIKH, MAHA
SHEIKH, BORGWARNER INC.,
GENERAL MOTORS CORPORATION,
FORD MOTOR COMPANY, KELSEY
HAYES COMPANY (dba TRW
AUTOMOTIVE), AND SPX
CORPORATION

Defendants.

Civil Action No. _____

Judge _____

COMPLAINT

The United States of America, by and through the undersigned attorneys, by the authority of the Attorney General of the United States, and on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), alleges as follows:

Nature of the Action

1. This is a civil action brought pursuant to Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9607(a). The United States seeks to recover response costs it has incurred in connection with a removal action ("Removal Action") at the Reclamation Oil Company Superfund Site in Detroit, Michigan (the "Site").

Jurisdiction and Venue

2. This Court has jurisdiction over the parties to this action and the subject matter thereof pursuant to 42 U.S.C. §§ 9607(a) and 9613(b) and 28 U.S.C. §§ 1331 and 1345.

3. Venue is proper in this district pursuant to 42 U.S.C. § 9613(b) and 28 U.S.C. § 1391(b) and (c), because the claims arose, and the actual and threatened releases of hazardous substances from the Site occurred, in this district.

Parties

5. Plaintiff is the United States of America, acting at the request of and on behalf of the Administrator of EPA.

6. Defendant CHEMCENTRAL Corporation (“CHEMCENTRAL”) is a corporation organized under the laws of the State of Michigan.

7. Defendant Reclamation Company, Inc. (“RCI”) is a corporation organized under the laws of the State of Michigan.

8. Defendant American Laboratories, Inc. (“American Labs”) is a corporation organized under the laws of the State of Michigan.

9. Defendant BorgWarner Inc. (formerly known as Borg-Warner Automotive, Inc.) is a corporation organized under the laws of the State of Michigan.

10. Defendant Ford Motor Company (“Ford”) is a corporation organized under the laws of the State of Michigan.

11. Defendant General Motors Corporation (“GM”) is a corporation organized under the laws of the State of Michigan.

12. Defendant Kelsey Hayes Company (dba TRW Automotive) is a corporation organized under the laws of the State of Michigan.

13. Defendant SPX Corporation is a corporation organized under the laws of the State of Michigan.

14. Defendant Estate of Morris I. Sheikh (the “Estate”) is the estate of decedent Morris I. Sheikh and is the subject of Probate No. 99 269,874 SE in the Oakland County Probate Court in Pontiac, Michigan.

15. Defendant Maha Sheikh is a resident of the State of Michigan.

The Site

16. The Site is located at 6472 Selkirk Avenue in Detroit, Michigan, and encompasses approximately one acre.

17. The Site consists of abandoned buildings, a tank farm, and a truck loading area, and is bordered by industrial facilities and residences.

18. Operations at the Site have primarily involved the reclamation of used waste oil and manufacturing of waste and waste water treatment products.

19. Operations at the Site resulted in contamination of soils at the Site with hazardous substances.

20. Soil samples collected at the Site have revealed elevated levels of substances including, but not limited to, arsenic (D004), selenium (D010), volatile organic compounds ("VOCs"), semi-volatile organic compounds ("SVOCs"), heavy metals, and polychlorinated biphenyls ("PCBs").

21. Between May 1999 and March 2000, EPA performed the Removal Action at the Site. The removal activities included, *inter alia*, off-site disposal of all hazardous substances in underground storage tanks ("USTs"), above-ground storage tanks ("ASTs"), drums, bags and small containers on the Site; the off-site disposal of associated contaminated debris and highly contaminated soils; decontamination and off-site disposal of storage containers; and destruction and removal of materials contaminated soil surrounding buried USTs.

22. EPA has incurred substantial costs in connection with the Removal Action, including costs related to enforcement. As of November 30, 2004, EPA costs related to the Removal Action totaled \$4,321,754.50.

23. The United States Department of Justice ("DOJ") has incurred, and continues to incur, enforcement costs in connection with the Removal Action. As of July 21, 2005, DOJ

enforcement costs related to the Removal Action totaled \$201,886.71.

24. To date, none of the Defendants has reimbursed the United States for any of the aforementioned costs.

General Elements of CERCLA Liability

25. CERCLA Section 107(a), 42 U.S.C. § 9607(a), provides, in pertinent part, that the following persons are liable for “response costs” which are not inconsistent with the National Contingency Plan, 40 C.F.R. Part 300, and which are incurred by the United States as a result of a “release” or threatened release of “hazardous substances” from a “facility”:

(1) the [current] owner or operator of . . . [the] facility,

(2) any person who at the time of disposal of any hazardous substance owned or operated [the] facility . . . ,

(3) any person who . . . arranged for disposal or treatment [at the facility], or arranged with a transporter for transport for disposal or treatment [at the facility], of hazardous substances owned or possessed by such person . . . , and

(4) any person who . . . accepted any hazardous substances for transport to [the facility]

42 U.S.C. § 9607(a).

26. The Site is a “facility” within the meaning and scope of CERCLA Sections 101(9) and 107(a), 42 U.S.C. §§ 9601(9) and 9607(a).

27. The soil and leaking underground storage tanks, above-ground storage tanks, drums, and containers at the Site contained “hazardous substances” within the meaning and scope of CERCLA Sections 101(14) and 107(a), 42 U.S.C. §§ 9601(14) and 9607(a).

28. There have been actual and threatened “releases” of hazardous substances from the Site, within the meaning and scope of CERCLA Sections 101(22) and 107(a), 42 U.S.C. §§ 9601(22) and 9607(a).

29. The actual and threatened releases of hazardous substances from the Site have caused the United States to incur “response costs” within the meaning and scope of CERCLA

Sections 101(25) and 107(a), 42 U.S.C. §§ 9601(25) and 9607(a).

30. The Removal Action was not inconsistent with the National Contingency Plan, 40 C.F.R. Part 300.

31. Each of the Defendants is a “person” within the meaning and scope of CERCLA Section 101(21), 42 U.S.C. § 9601(21).

CHEMCENTRAL

32. In 1935, Western Rosin and Turpentine Company (“Western Rosin”) purchased the Site.

33. In 1948, after a series of name changes and consolidations, Western Rosin and its affiliated companies became known as CHEMCENTRAL.

34. By virtue of the consolidations, CHEMCENTRAL assumed Western Rosin’s liabilities at the Site.

35. From approximately 1974 to 1976, CHEMCENTRAL leased the Site to Natural Resources Recovery Systems (“NRRS”) (now defunct).

36. NRRS reclaimed used waste oil at the Site for approximately a year and a half.

37. NRRS accepted used waste oil containing hazardous substances from industrial companies.

38. Between 1935 and 1976, the generation of waste streams containing hazardous substances was inherent in the process of reclaiming used waste oil at the Site.

39. Between 1935 and 1976, the waste streams generated at the Site contained, among other things, arsenic (D004), selenium (D010), volatile organic compounds (“VOCs”), semi-volatile organic compounds (“SVOCs”), heavy metals, and polychlorinated biphenyls (“PCBs”).

40. NRRS disposed of waste streams from the process of reclaiming used oil at the Site.

The Estate, RCI, and American Labs

41. The allegations in the preceding paragraphs are incorporated herein by reference.

42. In 1976, Morris I. Sheikh purchased the Site.

43. At all times relevant to this Complaint, Sheikh was an officer and the primary owner of RCI and American Labs.

44. RCI used the Site to reclaim used waste oil and manufacture chemicals for the treatment of industrial wastewater.

45. RCI accepted used waste oil and/or other wastes containing hazardous substances from numerous companies, including General Motors Corporation; Ford Motor Company; Kelsey Hayes Company (dba TRW Automotive); and SPX Corporation, or their predecessors.

46. American Labs performed the analytical work for the water treatment operations, and handled the paperwork and billing for RCI's operations.

47. Between 1976 and at least 1990, the generation of waste streams containing hazardous substances was inherent in the process of reclaiming used waste oil at the Site.

48. Between 1976 and the late 1990s, the waste streams generated at the Site contained, among other things, arsenic (D004), selenium (D010), volatile organic compounds ("VOCs"), semi-volatile organic compounds ("SVOCs"), heavy metals, and polychlorinated biphenyls ("PCBs").

49. RCI disposed of waste streams, including waste streams from the process of reclaiming used waste oil, at the Site.

50. RCI operated the Site at the time hazardous substances were disposed of there, within the meaning and scope of CERCLA Section 107(a)(2), 42 U.S.C. § 9607(a)(2).

51. American Labs operated the Site at the time hazardous substances were disposed of there, within the meaning and scope of CERCLA Section 107(a)(2), 42 U.S.C. § 9607(a)(2).

52. Sheikh personally managed and exercised control over RCI's and American Labs' operations and was directly and personally involved in operating the Site.

53. Sheikh owned the Site at the time hazardous substances were disposed of there, within the meaning and scope of CERCLA Section 107(a)(1), 42 U.S.C. § 9607(a)(1).

54. Sheikh operated the Site at the time hazardous substances were disposed of there, within the meaning and scope of CERCLA Section 107(a)(2), 42 U.S.C. § 9607(a)(2).

55. Sheikh died in August 1998.

56. Upon Sheikh's death, the Estate became legally responsible for his debts and liabilities.

57. Pursuant to CERCLA Section 107(a), 42 U.S.C. § 9607(a), the Estate, RCI, and American Labs are jointly and severally liable to the United States, along with the other Defendants, for all response costs incurred by the United States in connection with the Removal Action.

Other Defendants

58. The allegations in the foregoing paragraphs are incorporated herein by reference.

59. Defendant Maha Sheikh owned the Site from 1977 to 1999, when the Site reverted to the State of Michigan due to non-payment of taxes.

60. Defendant Maha Sheikh owned the Site at the time hazardous substances were disposed of there, within the meaning and scope of CERCLA Section 107(a)(1), 42 U.S.C. § 9607(a)(1).

61. The following Defendants (or their predecessors-in-interest) arranged for disposal of hazardous substances at the Site, or arranged with a transporter for disposal of hazardous substances at the Site, within the meaning and scope of CERCLA Section 107(a)(3), 42 U.S.C. § 9607(a)(3): Borg Warner Inc. (formerly known as Borg-Warner Automotive, Inc.); General Motors Corporation; Ford Motor Company; Kelsey Hayes Company (dba TRW Automotive); and SPX Corporation.

62. Pursuant to CERCLA Section 107(a), 42 U.S.C. § 9607(a), each Defendant referenced in the preceding paragraphs is jointly and severally liable to the United States, along with the other Defendants, for all response costs incurred by the United States in connection with the Removal

Action.

Claim for Relief

63. The allegations in the foregoing paragraphs are incorporated herein by reference.

64. Each of the Defendants is jointly and severally liable to the United States pursuant to CERCLA Section 107(a), 42 U.S.C. § 9607(a), for all response costs incurred by the United States in connection with the Removal Action, including (without limitation) pre-judgment interest.

Prayer for Relief

WHEREFORE, the United States respectfully requests that this Court:

A. Award the United States a judgment against the Defendants, jointly and severally, for all response costs incurred by the United States in connection with the Removal Action, including pre-judgment interest;

B. Enter a declaratory judgment that Defendants are liable for all future response costs incurred by the United States in connection with the Site pursuant to CERCLA § 9613(g)(2), 42 U.S.C. § 9613(g)(2); and

B. Grant other relief as the Court deems just and proper.

Respectfully submitted,

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Environment and Natural Resources Division
United States Department of Justice

Date: 6/20/07

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Complaint and Consent Decree were served on this date by certified mail, postage pre-paid, upon:

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